

REMARKS

Applicant appreciates the Examiner's thorough review of the present application, and respectfully requests reconsideration in light of the preceding amendments and the following remarks.

Claims 1, 2, 4-5, 11-12, 15, 18, 22, 24-34 are pending in the application. Independent claims 12 and 22 and claim 15 have been amended to better define the claimed invention. New claims 29-34 have been added to provide Applicants with the scope of protection to which they are believed entitled. The claim amendments find solid support in the original specification, e.g., at page 19, lines 2, 11, and 15. No new matter has been introduced through the foregoing amendments.

The 35 U.S.C. 112, *first paragraph* rejection of claims 12-18 is believed overcome in view of the above amendments, i.e., the language "permanently attached" is no longer recited in independent claim 12.

The 35 U.S.C. 103(a) rejections of all claims as being obvious over *Kobayashi* in view of newly cited and applied U.S. Patent No. 6,509,285 to *Yeh* is noted. Basically, the Examiner proposes to modify the elastic fibers (5) of *Kobayashi* to have the lobed configurations (15-17) disclosed by *Yeh* for the benefit of improving the moisture management and transfer capability of the fibers.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. See *MPEP*, section 2143 quoting *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In order to rely on a reference as a basis for rejection of an applicant's invention [under 35 U.S.C.

103(a)], the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); and *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993). See MPEP, section 2141.01(a)

Applicants respectfully traverse the obviousness rejection relying on *Kobayashi* and *Yeh*, because *Yeh* is non-analogous art.

In particular, *Yeh* relates to woven fabric (see *Yeh* at Figs. 2a-2d) rather than non-woven fabric as the claimed invention. Thus, *Yeh* is not in the same field of applicant's endeavor.

Further, *Yeh* deals with moisture management in a woven fabric. See *Yeh* at column 1, lines 13-16, 54-55, and 62-63 as well as column 2, lines 26, 29, 32, 36 39, and 42. This moisture management matter would not have logically commended itself to an inventor's attention in considering the problem of improving the soft and flexible touch of a non-woven fabric. See the specification at pages 1-5. Thus, *Yeh* is not reasonably pertinent to the particular problem (i.e., soft and flexible touch of non-woven fabric) with which the inventor was concerned.

Accordingly, Applicants respectfully submit that *Yeh* is non-analogous art that cannot be applied against the claims of the instant application in an obviousness rejection.

As to independent claim 1, the Examiner has not specified with reasonable clarity how the applied references teach or suggest the claim language that "in each of said attaching areas, 4 to 16 of said second fibers are attached to one said first fiber." Clarification is respectfully requested.

As to independent claim 12, Applicants respectfully disagree with the Examiner's argument found in the Office Action at page 3, lines 8-14. Assuming *arguendo* that the Examiner's combination was proper, it would still fail to teach or disclose the limitation of independent claim

12 that at least two inelastic fibers are repeatedly attached to each elastic fiber. The Examiner's argument in page 3, lines 8-14 of the Office Action is flawed, because it would not be necessary, if at all possible, that at least two inelastic fibers (6) in the upper web (3) of *Kobayashi* are repeatedly bonded to each elastic fiber (5) in the lower web (2), due to the random arrangement of fibers in both webs which randomness is the inherent nature of non-woven fabric. A similar argument has been presented in the Amendment filed October 24, 2005, at page 11, the first full paragraph which is incorporated by reference herein.

As to independent claim 22, the Examiner's reliance on *Davies* for the claimed conjugate fibers is noted. Assuming *arguendo* that the Examiner's combination was proper, it would still fail to teach or disclose the limitation of claim 22 that "in said unsplit section of each said conjugate fiber, the respective second fibers define 40 to 90% of an entire circumferential length of said conjugate fiber." In other words, the second fibers do not define the entire circumferential length of the conjugate fiber in its unsplit section. *Davies* teaches the opposite, as can be seen in Fig. 5a of the reference where it is disclosed that the second fiber, i.e., sheath 39, defines the entire circumferential length of the conjugate fiber.

The dependent claims are considered patentable at least for the reasons advanced with respect to the respective independent claims. The dependent claims are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art.

As to new claims 29-30, the applied references do not appear to fairly teach or suggest that the second fiber has an elongated cross section which has a first dimension along a long axis thereof and a second dimension along a short axis thereof, the first dimension being greater than two times the second dimension.

As to new claim 31, the applied references do not appear to fairly teach or suggest that at

least three of the second fibers are repeatedly attached to each of the first fibers multiple times in a plurality of said attaching areas arranged longitudinally of said first fiber, and a length of each said second fiber extending between two adjacent attaching areas among the plurality of said attaching areas is greater than and detachable from a corresponding length of said first fiber extending between said two adjacent attaching areas. The added claim language finds supported in at least Fig. 4 at 12a, b, c.

As to new claim 32, the Examiner has not specified with reasonable clarity how the applied references teach or suggest the claim language that each of said first fibers has a cross section consisting of two convex portions and two concave portions alternatingly arranged in a circumferential direction of said cross section, as previously recited in claim 12 and now new claim 32. Clarification is respectfully requested.

As to new claim 33, the Examiner has not specified with reasonable clarity how the applied references teach or suggest the claim language that, in said unsplit section of each said conjugate fiber, each said convex portion of the respective first fiber has a region which is furthest from a central axis of said first fiber and which is exposed and not covered by any of the respective second fibers, as previously recited in claim 22 and now new claim 33. Clarification is respectfully requested.

As to new claim 34, the applied references do not appear to fairly teach or suggest that, in said unsplit section of each said conjugate fiber, each of the respective second fibers has an oval cross section.

Each of the Examiner's rejections has been traversed/overcome. Accordingly, Applicant respectfully submits that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

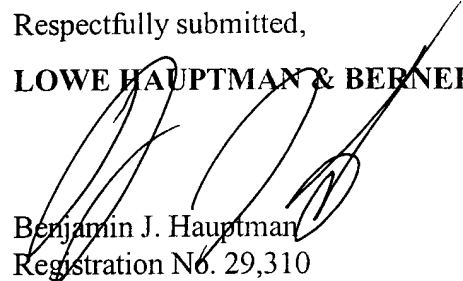
The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to

facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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